



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/188,863	11/09/1998	FORREST NABORS	4606P001	4817

7590 05/03/2006

ATTEN: GREGORY D. CALDWELL  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
12400 WILSHIRE BOULEVARD  
7TH FLOOR  
LOS ANGELES, CA 90025

EXAMINER

LE, KHANH H

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/188,863

Applicant(s)

NABORS ET AL.

Examiner

Khanh H. Le

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/30/2006 *KHL*
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 72-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 72-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>02/03/2006</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/30/2006 has been entered. Claims 72-76 are pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 73 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

4. Claim 73 recites the limitation "determining the qualification... etc..". That limitation had been canceled in independent claim 72. Thus there is insufficient antecedent basis for this limitation in the claim.

### ***Response to Arguments***

5. Applicant's arguments have been considered but are unpersuasive.

Applicants, at page 5 of their Response, argue that “intermediary” must be interpreted as defined in the Specifications at p.5 line 27-page 6 line 1. However, this portion of the Specifications cited by the Applicants do not amount to a clear definition of the term “intermediary”.

Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999).

THE WORDS OF A CLAIM MUST BE GIVEN THEIR "PLAIN MEANING" UNLESS THEY ARE DEFINED IN THE SPECIFICATION. “..during examination the USPTO must give claims their broadest reasonable interpretation.) MPEP 2111.01. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ... It is only when the specification provides definitions for terms appearing in the claims that the specification can be used in interpreting claim language. *In re Vogel*, 422 F.2d 438, 441, 164 USPQ 619, 622 (CCPA 1970).

Note the words used “such as”, “for example” which only give examples of possible intermediaries in the excerpted Specifications portion. Further Applicants’ Drawing Fig 5, item 126 shows an intermediary as a dealership just as interpreted by the Examiner.

Next, at page 7, 3rd last full paragraph, Applicants challenge the Official Notice “that it is old and well-known to determine a maximum purchasing capacity for the user in substantial purchases such as cars or real estate to assure the transaction is feasible”.

Applicants argue that it is not known to determine a maximum purchasing capacity with respect to locating a desired product and requesting price information.

The following article, "Determining what you have a financial inventory", [http://web.archive.org/web/\\*/http://membrane.com/synapse/prequal.html](http://web.archive.org/web/*/http://membrane.com/synapse/prequal.html), dated back to October 20, 1996 by the Wayback Machine, see <http://membrane.com/synapse/prequal.html>, attached, is provided as support for the Official Notice.

It shows pre-qualification or pre-approval of mortgage loans, before searching for the right home. It is obvious the house price is not known before the house is found. The purpose of prequalification or pre-approval is obviously not to waste one's time searching for a product (house) one cannot afford. It would have been obvious to one skilled in the art at the time the invention was made to use the same principle in the context of purchases of other big ticket items such as cars for the same time-saving purpose.

Applicants' also argue Lupien does not disclose willingness to negotiate but that limitation is already disclosed by Sammon. The argument as to Lupien is moot also. Upon further consideration Lupien is determined not necessary as a reference.

The previous art references are kept with 2 additional references added to accommodate the newly added limitations of claim 72. Discussion of the new limitations is shown in **bold**.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. **Claims 72-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sammon et al, US 6012051 A in view of Luke, US 6131087, hereinafter Luke and further in view of Axaopoulos et al., US 6286002 B1, herein Axaopoulos and Stiegler US 5774121, herein Stiegler.**

As to claim 72, Sammon discloses

A wide area system which processes information to identify product choices within a product domain for a user, presents structured data concerning attributes of products in the product domain to the user in a readily understandable and efficient manner, allowing the user to make the best choice according to his or her own personal profile. A user interface presents a sequence of input prompts to the user to gather preference and requirement data for a plurality of attributes of products in the product domain. A decision engine is coupled to the user interface and filters the product domain to present a set of products according to the gathered preference and requirement data as product choices to the user. The preference data comprises a variable associated with particular attributes specified by the user to have a degree of relevance to a product choice in the product domain but not an absolute requirement. The requirement data comprises a variable associated with a particular attribute specified by the user to be required or not required for a product choice in the product domain. (see at least abstract, col. 3-4 lines 17, Figs. 9-13 and associated text).

Sammon discloses that for each product attribute, the customer indicates a discrete level of **willingness to negotiate a modification** of the particular attribute by indicating from “must have” (i.e. low level of willingness to negotiate) to “don’t care” (i.e. high level of willingness to negotiate) (Figs. 9-13 and associated text). Implicitly those levels of willingness to negotiate are ranked from among multiple hierarchical tiers of ranks from lowest level to negotiate to highest level to negotiate. (negotiations are implied as the Sammon system is used to purchase big-ticket items, (see at least col. 1 lines 35-47 ). SAMMON also discloses determining purchase qualifications of the customer (see at least Figs. 6 and associated text).

Thus SAMMON discloses all limitations of claim 72 except as discussed below.

Art Unit: 3622

Sammon does not specifically disclose an intermediary subsystem but discloses its system is applicable to big ticket purchases thus an intermediary subsystem as used in a car dealership would be obvious to be incorporated in Sammon because use of a dealership as an intermediary is a common business practice .

Sammon does not specifically disclose requests for quotes (RFQ's), and selecting a seller who has the customer-defined product configuration though SAMMON discloses ranking of several matching products.

However Luke disclose:

negotiations ( offers, acceptance, counteroffers or rejection : Fig 3 and associated text), matching offer and solicitation data (which can be under formats of RFQ's, col 5 l. 60-65, col 7 l. 25-40;col 6 l. 56-60).

generating/displaying a list of perfect or near-perfect matches (Fig 2A and associated text) in all dimensions and display of results to the user to help identify potential exchange partner(s)( Fig 2 and associated text ),

notification to supervising agent (intermediary), confirmation and binding contract formation of (Fig 4).

Luke further discloses fully automated evaluation of identified potential sellers/proposals, once a list is identified by matching , based on further buyers' selected parameters (Fig 3 and associated text, col 9 l. 49-col 10 line 14, especially col 10 l 11-4).

Thus one skilled in the arts would have known to supplement Sammon's on-line shopping by initial search/matching with Luke's automatically prepared RFQ for price presentation to the customer because pricing is paramount in complex products shopping situations. Further, it would have been obvious to add Luke's automatic selection of vendors

Art Unit: 3622

based on product characteristics to the Sammon's matching products to allow presentation of sellers who have the relevant products to the customer as taught by Luke.

As to the RFQ's being uniquely identified, Official Notice is taken that such practice is well-known for identification purposes and thus obvious to be added to SAMMON for that advantage.

**As to the new limitation of determining if the customer-defined product configuration is available from a manufacturer, as stated above, Luke discloses near perfect matching of specified products in all dimensions (Fig 2A and associated text). In the context of cars, that would mean the customer-defined product configuration is available from its manufacturer.**

As to determining whether a seller has the general product, as stated above, Luke discloses such ( Fig 2 and associated text : potential exchange partner(s) are identified and presented; see also Fig 3 and associated text, col 9 l. 49-col 10 line 14, especially col 10 l 1-4).

**As to the new limitations of a product being specified by "an automobile manufacturer indication and a model indication" Sammon discloses cars attributes including options (see e.g. Fig. 14 : "performance" as an attribute and its subcategories) but does not specifically disclose car manufacturers and models. However specifying a product being a vehicle by manufacturer name and model is known.**

**For example, Axaopoulos discloses a system and method for storing and searching buy and sell information of a marketplace. At Figures 15-18 and associated text, it is disclosed that in order to specify a desired vehicle, users select a number of nodes indicating the possible car manufacturers nationalities and their names, such as Buick, Chevrolet if an American-made car is desired. Other car options can be specified too ( see e.g. Figure 18 item 1890). In so defining the car, the users "let other help find that car" ( col. 14 lines 52-53).**

**Further, Stiegler US 5774121 A (cited earlier), in analogous arts, discloses a user interface method and system for graphical decision making with categorization across multiple criteria using weights, ranking of attributes. Stiegler discloses that criteria or options for specifying a new car to purchase are at least the car models ( col. 18 lines 18-25).**

**It would have been obvious to one skilled in the art at the time the invention was made to add manufacturers and models as disclosed above to the Sammon's car options to further define a car to be bought "to let other(s) help find that car" (Axaopoulos col. 14 lines 52-53).**

As to claim 73, SAMMON discloses qualification of the customer (see at least Figs. 6 and associated text). Further Official Notice is taken that it is old and well-known to determine a maximum purchasing capacity for the user in substantial purchases such as cars or real estate to assure the transaction is feasible and thus it would have been obvious to one skilled in the art at the time the invention was made to add such feature to Sammon/Luke for the above advantage.

("Determining what you have a financial inventory", see [web.archive.org/web/19961020103955/http://membrane.com/synapse/prequal.html](http://web.archive.org/web/19961020103955/http://membrane.com/synapse/prequal.html) attached, dated back to October 20, 1996 by the Wayback Machine, is provided as support for the Official Notice.)

It shows pre-qualification or pre-approval of mortgage loans, before searching for the right home. It is obvious the house price is not known before the house is found. The purpose of prequalification or pre-approval is obviously not to waste one's time searching for a product (house) one cannot afford. It would have been obvious to one skilled in the art at the time the invention was made to use the same principle in the context of purchases of other big ticket items such as cars for the same time-saving purpose. )

As to claim 74, Sammon does not specifically disclose a range of 1-5. However, SAMMON discloses different ways to evaluate a product attribute, including assigning numerical values to each attribute as appropriate (see at least col. 2 lines 33-47,, Figs 9-14 and associated text). In particular, Sammon teaches an attribute measurement can be “an enumerated type for an attribute selected from a list or set” ( col. 2 lines 39-42). As discussed above, Sammon’s willingness to negotiate a modification of a particular attribute is indicated by choosing from a list of 5 discrete values ranging from “must have” (i.e. low level of willingness to negotiate) to “don’t care” (i.e. high level of willingness to negotiate) (see e.g. Fig. 9). It would have been obvious to use a numerical range from 1-5 to represent the 5 discrete choices pertaining to the willingness to negotiate a certain attribute (as shown in Sammon’s Figure 9), to effect , in a logical manner, Sammon’s particular teaching that “an enumerated type’ can be used when the attribute measurement is selected from a list or set ( col. 2 lines 39-42).

As to claim 75, Sammon discloses matching the products that match the best (i.e. the ones that have a high percentage of attributes which are indicated as having higher priority by the customer) and ranking them for presentation (see at least Figs.15 and associated text). Further as stated above Luke discloses presenting the seller that has the desired product. Thus Sammon/ Luke discloses claim 75 for the same motivation stated above.

As to claim 76, Sammon discloses ranking of matching products (see at least Figs. 15 and associated text) i.e. SAMMON also implicitly discloses showing a matching product with an attribute that does not quite match but who has an attribute for which the user indicated a high level of willingness to negotiate.

It would have been obvious to one skilled in the art at the time the invention was made , if the system does not have the best matched product to present one for which to the user indicated a high level of willingness to negotiate in order to potentially close a sale. Thus, as Luke discloses quotes, it would further have been obvious to one skilled in the art at the time the invention was made to give a quote covering that situation with the appropriate attribute

Art Unit: 3622

modification description to inform the consumer what the quote is about and to assist in her decision process.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Witek et al, US 6253188 B1 discloses an Automated interactive classified ad system for the internet wherein parameters defining a car to be bought include the make (i.e. made by which manufacturer) of a car

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

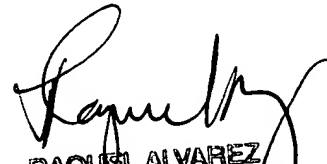
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 18, 2006

  
KHL

  
RAQUEL ALVAREZ  
PRIMARY EXAMINER